

SENATE BILL 617

F1
SB 921/21 – EHE

2lr1012
CF HB 547

By: **Senators Zucker, Ferguson, Lam, Klausmeier, Hayes, Waldstreicher, Jackson, Hettleman, Beidle, and Jennings**

Introduced and read first time: February 2, 2022

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 22, 2022

CHAPTER _____

1 AN ACT concerning

2 **Local School Systems – Equivalent Access Standards – Digital Tools**
3 ~~(Nonvisual)~~ **(Equivalent and Nonvisual Access Accountability Act for K-12**
4 **Education)**

5 FOR the purpose of requiring a local school system to provide equivalent access to digital
6 tools for students with disabilities, including the development, purchase, and
7 provision of certain digital tools; requiring the Secretary of Disabilities, rather than
8 the Secretary of Commerce, to ensure jointly with the State Superintendent of
9 Schools that certain specifications are used in certain grants and procurement
10 contracts; requiring a procurement contract for a digital tool to require a vendor to
11 indemnify the State Board of Education or a local school system for certain liabilities
12 and costs; requiring a vendor who provided a local school system with a digital tool
13 that fails to meet certain standards to modify the digital tool at the vendor's expense
14 to meet certain equivalent access standards within a certain period of time; and
15 generally relating to equivalent access standards for digital tools developed or
16 purchased by local school systems.

17 BY repealing and reenacting, with amendments,
18 Article – Education
19 Section 7–910
20 Annotated Code of Maryland
21 (2018 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Education

7–910.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(2) “DIGITAL TOOL” MEANS:

(I) AN ONLINE PLATFORM;

(II) ~~A~~ AN ONLINE COURSE;

(III) INFORMATION AND COMMUNICATION TECHNOLOGY
SERVICES, INCLUDING SOFTWARE AND OPERATING SYSTEMS, THAT ARE DIRECTLY
CONNECTED TO STUDENT INSTRUCTION;

(IV) DIGITAL CONTENT; OR

(V) OTHER DIGITAL TECHNOLOGIES NOT REQUIRING SIGHT IN
AN EQUALLY EFFECTIVE AND INTEGRATED MANNER.

(3) (I) “EQUIVALENT ACCESS” MEANS THE ABILITY TO RECEIVE,
USE, AND MANIPULATE INFORMATION AND OPERATE CONTROLS NECESSARY TO
ACCESS AND USE INFORMATION TECHNOLOGY, INCLUDING BY NONVISUAL MEANS,
SO THAT A STUDENT WITH DISABILITIES CAN ACCESS THE SAME SERVICES AS A
STUDENT WITHOUT DISABILITIES WITH SUBSTANTIALLY EQUIVALENT EASE OF USE.

(II) “EQUIVALENT ACCESS” INCLUDES:

1. KEYBOARD CONTROLS USED FOR INPUT AND
SYNTHESIZED SPEECH;

2. BRAILLE; AND

3. OTHER AUDIBLE OR TACTILE MEANS USED FOR
OUTPUT.

(4) “NONVISUAL ACCESS” MEANS THE ABILITY TO RECEIVE, USE, AND
MANIPULATE INFORMATION AND OPERATE CONTROLS NECESSARY TO ACCESS
INFORMATION AND COMMUNICATIONS TECHNOLOGY THROUGH KEYBOARD

1 CONTROLS, SYNTHESIZED SPEECH, BRAILLE, OR OTHER METHODS NOT REQUIRING
2 SIGHT.

3 [(a)] (B) The State Superintendent and the Secretary of [Commerce]
4 **DISABILITIES** jointly shall ensure that specifications used in all grants and procurement
5 contracts for ~~technology-based instructional products~~ **DIGITAL TOOLS** require equivalent
6 access for students with disabilities, including blindness, in accordance with the technical
7 standards for electronic and information technology issued under subsection (a)(2) of
8 Section 508 of the federal Rehabilitation Act of 1973, 29 U.S.C. § 794d(a)(2).

9 [(b)] (C) (1) This subsection [does not apply] **APPLIES** to teacher-developed
10 instructional materials [until fiscal year 2005].

11 (2) Invitations for bids, requests for proposals, procurement contracts,
12 grants, or modifications to contracts or grants issued by the State or any local school system
13 shall include notice of the equivalent access requirement whenever funds awarded may be
14 used to develop or obtain ~~technology-based instructional products~~ **DIGITAL TOOLS**.

15 (3) (I) **BEGINNING SEPTEMBER 1, 2023, AN INVITATION FOR BIDS**
16 **OR REQUEST FOR PROPOSALS FOR A DIGITAL TOOL ISSUED BY THE STATE BOARD**
17 **OR A LOCAL SCHOOL SYSTEM SHALL REQUIRE A VENDOR TO SUBMIT AN**
18 **ACCESSIBILITY CONFORMANCE REPORT THAT INCLUDES A VOLUNTARY PRODUCT**
19 **ACCESSIBILITY TEMPLATE.**

20 (II) **THE ACCESSIBILITY CONFORMANCE REPORT REQUIRED IN**
21 **SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL EXPLAIN HOW INFORMATION AND**
22 **COMMUNICATION TECHNOLOGY PRODUCTS, INCLUDING SOFTWARE, ~~HARDWARE,~~**
23 **ELECTRONIC CONTENT, AND SUPPORT DOCUMENTATION, CONFORM TO THE MOST**
24 **RECENT SECTION 508 STANDARDS FOR INFORMATION TECHNOLOGY ACCESSIBILITY**
25 **UNDER THE FEDERAL REHABILITATION ACT OF 1973.**

26 (4) (I) **A LOCAL SCHOOL SYSTEM SHALL ESTABLISH A PROCESS TO**
27 **EVALUATE A DIGITAL TOOL BEING CONSIDERED FOR DEVELOPMENT OR PURCHASE**
28 **FOR CONFORMITY WITH THE REQUIREMENTS OF THIS SECTION.**

29 (II) **THE EVALUATION PROCESS ESTABLISHED UNDER**
30 **SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE EVALUATION OF THE**
31 **DIGITAL TOOL FOR EQUIVALENT ACCESS AND NONVISUAL ACCESS BY AN EMPLOYEE**
32 **OR A CONTRACTOR OF THE LOCAL SCHOOL SYSTEM WHO:**

33 1. **SPECIALIZES IN ACCESSIBILITY AND WEB CONTENT**
34 **ACCESSIBILITY GUIDELINES; OR**

2. IS A BLINDNESS SPECIALIST WHO IS
KNOWLEDGEABLE IN ACCESSIBILITY.

~~(H)~~ (5) A PROCUREMENT CONTRACT FOR A DIGITAL TOOL
SHALL REQUIRE A VENDOR TO INDEMNIFY THE STATE BOARD OR A LOCAL SCHOOL
SYSTEM FOR LIABILITY AND COSTS ARISING FROM THE FAILURE OF THE DIGITAL
TOOL TO MEET THE REQUIREMENTS OF THIS SECTION.

~~(5)~~ (6) EXCEPT AS PROVIDED IN SUBSECTION (E)(2) OF THIS
SECTION, THE STATE BOARD OR A LOCAL SCHOOL SYSTEM MAY NOT APPROVE A
PROCUREMENT CONTRACT FOR A DIGITAL TOOL THAT FAILS TO MEET THE
REQUIREMENTS OF THIS SECTION.

[(c)] (D) The State and each local school system shall also ensure that the
equivalent access standards are included in guidelines used for design specifications for
and evaluation and selection of ~~technology-based instructional products~~ DIGITAL TOOLS.

[(d)] (E) (1) (I) Following an evaluation of ~~technology-based instructional
products~~ DIGITAL TOOLS, the State or local school system shall [select] **PRIORITIZE** the
available product that best meets the specifications and has the greatest functionality for
equivalent access for students with disabilities, including blindness.

(II) BEGINNING OCTOBER 1, 2024, FOLLOWING AN
EVALUATION OF ~~TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL TOOLS,
A LOCAL SCHOOL SYSTEM SHALL SELECT THE AVAILABLE PRODUCT THAT BEST
MEETS THE EQUIVALENT ACCESS STANDARDS AND HAS THE GREATEST
FUNCTIONALITY FOR EQUIVALENT ACCESS FOR STUDENTS WITH DISABILITIES,
INCLUDING BLINDNESS.

(2) (I) If a product that meets the equivalent access standards is not
available, or if obtaining an available product would fundamentally alter the nature of the
instructional activity or would result in an undue burden, the local school system [may
obtain a product that does not meet the equivalent access standards but provides the best
equivalent access functionality] **SHALL NOTIFY THE DEPARTMENT**.

(II) AFTER THE DEPARTMENT RECEIVES A NOTICE UNDER
SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT SHALL CONSULT WITH
THE DEPARTMENT OF INFORMATION TECHNOLOGY AND THE DEPARTMENT OF
DISABILITIES TO ~~ENSURE THAT ANOTHER PRODUCT IS PURCHASED THAT WILL
OFFER AN EFFECTIVE EDUCATIONAL OPTION~~ ALLOW THE LOCAL SCHOOL SYSTEM
TO OBTAIN A PRODUCT THAT DOES NOT MEET THE EQUIVALENT ACCESS STANDARDS
BUT PROVIDES THE BEST EQUIVALENT ACCESS FUNCTIONALITY.

[(3) The Department shall:

(i) Monitor compliance with the requirements of accessibility of technology-based instructional products set forth in COMAR 13.A.05.02; and

(ii) Report its findings, in accordance with § 2-1257 of the State Government Article, to the General Assembly on or before December 31 of each year.]

(F) (1) A DIGITAL TOOL DEVELOPED OR PURCHASED BY A COUNTY BOARD FOR USE BY THE LOCAL SCHOOL SYSTEM SHALL INCLUDE SPECIFICATIONS FOR ACCESS FOR STUDENTS WITH DISABILITIES, INCLUDING NONVISUAL ACCESS, IN ACCORDANCE WITH THE TECHNICAL STANDARDS FOR ELECTRONIC AND INFORMATION TECHNOLOGY ISSUED UNDER:

(I) SUBSECTION (A)(2) OF SECTION 508 OF THE FEDERAL REHABILITATION ACT OF 1973; OR

(II) ANY OTHER WIDELY ACCEPTED ~~OR~~ AND FREELY AVAILABLE TECHNICAL STANDARD.

(2) A LOCAL SCHOOL SYSTEM SHALL PROVIDE A STUDENT WITH DISABILITIES ACCESS TO DIGITAL TOOLS THAT:

(I) ~~ARE FULLY AND EQUALLY ACCESSIBLE TO AND~~ PROVIDE EQUIVALENT ACCESS TO AND ARE INDEPENDENTLY USABLE BY A STUDENT WITH DISABILITIES; AND

(II) ENABLE A STUDENT WITH DISABILITIES TO ACQUIRE THE SAME INFORMATION, PARTICIPATE IN THE SAME INTERACTIONS, AND ACCESS THE SAME SERVICES AS A STUDENT WITHOUT DISABILITIES, WITH SUBSTANTIALLY EQUIVALENT EASE OF USE.

(G) (1) (I) IF A LOCAL SCHOOL SYSTEM FINDS THAT A DIGITAL TOOL FAILS TO MEET THE EQUIVALENT ACCESS STANDARDS UNDER SUBSECTION (F) OF THIS SECTION, INCLUDING NONVISUAL ACCESS, WITHIN 18 MONTHS AFTER DEVELOPMENT OR PURCHASE OF THE DIGITAL TOOL, THE LOCAL SCHOOL SYSTEM SHALL SEND A WRITTEN NOTICE TO THE VENDOR OF THE VENDOR'S FAILURE TO COMPLY WITH THE EQUIVALENT ACCESS STANDARDS REQUIRED UNDER THE PROCUREMENT CONTRACT.

(II) ON RECEIPT OF NOTICE FROM A LOCAL SCHOOL SYSTEM UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, A VENDOR, AT THE VENDOR'S EXPENSE, SHALL MODIFY THE DIGITAL TOOL TO MEET THE REQUIRED EQUIVALENT ACCESS STANDARDS WITHIN A TIMEFRAME AGREED ON BY THE LOCAL SCHOOL SYSTEM AND THE VENDOR.

(2) A VENDOR THAT FAILS TO MEET THE EQUIVALENT ACCESS STANDARDS IN ACCORDANCE WITH PARAGRAPH (1)(II) OF THIS SUBSECTION:

(I) IS SUBJECT TO A CIVIL PENALTY OF:

1. FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$5,000; OR

2. FOR A SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING \$10,000; AND

(II) SHALL INDEMNIFY THE STATE BOARD OR COUNTY BOARD FOR LIABILITY RESULTING FROM THE USE OF A DIGITAL TOOL THAT FAILS TO MEET THE EQUIVALENT ACCESS STANDARDS UNDER SUBSECTION (F) OF THIS SECTION, INCLUDING NONVISUAL ACCESS.

[(e) If technology-based instructional products are provided to students without disabilities and not to a student with a disability, the State or local school system shall implement an alternative method of instruction, including use of other technology-based instructional products, if available, designed to enable a student with a disability to achieve the same instructional outcomes consistent with the student's IEP Plan, as defined in § 8-408 of this article, or the student's 504 Plan, as provided under the federal Rehabilitation Act of 1973.]

(H) (1) IF ~~TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL TOOLS ARE PROVIDED TO A STUDENT WITHOUT A DISABILITY AND NOT TO A STUDENT WITH A DISABILITY, THE STATE OR LOCAL SCHOOL SYSTEM SHALL IMPLEMENT AN ALTERNATIVE METHOD OF INSTRUCTION, INCLUDING USE OF OTHER ~~TECHNOLOGY-BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL TOOLS, IF AVAILABLE, DESIGNED TO ENABLE A STUDENT WITH A DISABILITY TO ACHIEVE THE SAME INSTRUCTIONAL OUTCOMES CONSISTENT WITH THE STUDENT'S IEP PLAN, AS DEFINED IN § 8-408 OF THIS ARTICLE, OR THE STUDENT'S 504 PLAN, AS PROVIDED UNDER THE FEDERAL REHABILITATION ACT OF 1973.

(2) AN ONLINE PLATFORM, ONLINE CONTENT, WEBSITE, WEB SERVICE, WEBPAGE, EDUCATIONAL RESOURCE PRODUCT, OR ONLINE CURRICULUM DEVELOPED OR PURCHASED BY A COUNTY BOARD THAT IS MADE AVAILABLE TO ENROLLED STUDENTS OF THE LOCAL SCHOOL SYSTEM OR ONLINE TO THE PUBLIC SHALL COMPLY WITH THE MOST RECENT VERSION OF THE WORLD WIDE WEB CONSORTIUM'S WEB CONTENT ACCESSIBILITY GUIDELINES.

(I) (1) ON OR BEFORE OCTOBER 1, 2023, AND EACH OCTOBER 1 THEREAFTER, EACH LOCAL SCHOOL SYSTEM SHALL SUBMIT A REPORT TO THE

1 DEPARTMENT ON THE ACCESSIBILITY OF THE DIGITAL TOOLS THE LOCAL SCHOOL
2 SYSTEM DEVELOPED OR PURCHASED FOR USE DURING THE IMMEDIATELY
3 PRECEDING FISCAL YEAR.

4 (2) THE DEPARTMENT SHALL COMPILE THE INFORMATION
5 RECEIVED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND MAKE THE
6 INFORMATION AVAILABLE ON THE DEPARTMENT'S WEBSITE, INCLUDING THE
7 STATUS OF THE ACCESSIBILITY OF THE DIGITAL TOOLS USED IN EACH LOCAL
8 SCHOOL SYSTEM.

9 (J) THE DEPARTMENT SHALL:

10 (1) MONITOR COMPLIANCE WITH THE REQUIREMENTS FOR
11 ACCESSIBILITY OF ~~TECHNOLOGY BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL
12 TOOLS UNDER COMAR ~~13A.05.02~~ 13A.06.05;

13 (2) ANNUALLY UPDATE THE REQUIREMENTS FOR ACCESSIBILITY OF
14 ~~TECHNOLOGY BASED INSTRUCTIONAL PRODUCTS~~ DIGITAL TOOLS UNDER COMAR
15 ~~13A.05.02~~ 13A.06.05; AND

16 (3) ON OR BEFORE DECEMBER 31 EACH YEAR, REPORT ITS FINDINGS
17 TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE
18 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
20 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.